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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/465,529	12/16/1999	NOSAKHARE D. OMOIGUI	MS1-420US	8985
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LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			EXAMINER SALCE, JASON P	
			ART UNIT	PAPER NUMBER
			2623	

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	02/27/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 02/27/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

lhptoms@leehayes.com

Office Action Summary

Application No.

09/465,529

Applicant(s)

OMOIGUI, NOSAKHARE D.

Examiner

Jason P. Salce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-13,15-37 and 39-57 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-13,15-37 and 39-57 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |


DETAILED ACTION

1. In view of the Appeal Brief filed on 8/29/2006, PROSECUTION IS HEREBY REOPENED. A new grounds of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below: 

After review of the Appeal Brief, the examiner notes that Alexander fails to teach simultaneously monitoring two or more electronic presentation that are concurrently broadcast in regards to Applicant's invention, therefore a new ground of rejection in view of Menard et al. (U.S. Patent No. 6,810,526) is set forth below.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. Claim 24 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 24 states the limitation "a notification" twice in the claim and the examiner cannot determine if these notifications are two different notifications or the same notification. The examiner recommends renaming the notifications to a first and second notification or provide a level of antecedent basis where both notification are conveyed as the same notification, whichever is consistent with the specification of the instant application.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-3, 5-7, 9-13, 15-17, 19-27, 29-37, 39-46 and 50-54 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Menard et al. (U.S. Patent No. 6,810,526).

Referring to claim 1, Menard discloses a management method for managing viewing of multiple live electronic presentations (see Column 1, Lines 4-7 and Column 2, Lines 14-29).

Menard also discloses simultaneously monitoring two or more electronic presentations that are concurrently broadcast (see Column 3, Lines 5-9 for simultaneously monitoring each channel by the use of separate servers 8 in Figure 1), wherein said monitoring comprises monitoring data that does not comprise content that can be presented to a viewer (see Column 2, Line 60 through Column 3, Line 4 and Column 4, Lines 12-16 and Column 4, Lines 47-57 for the monitoring comprising the use of time-tagged text streams, which are only used by the servers 4 and 8 and are not displayed to the user).

Menard also discloses automatically switching back and forth between displays of the two or more electronic presentations based upon viewer-defined preferences (see Column 3, Lines 33-39 for causing PC 7 or television set to change channels based upon an alert signal sent to the user, where the alert signal is triggered based on the user's request (or requests) to view television programs with Bill Clinton talking about the Middle East (see Column 3, Lines 33-40)), wherein the viewer-defined preferences are defined in terms of events that can occur within electronic presentations (see Column 3, Lines 20-25 for the viewer defined preferences being Clinton and Middle East, which define the events of Bill Clinton talking about the Middle East occurring in the electronic presentation), wherein at least some of said events describe some activity or action that can take place within the electronic presentation itself (again see Column

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3, Lines 20-25 for the events being the action/activity of Bill Clinton talking about the Middle East).

Referring to claim 2, Menard discloses that the viewer-defined preferences are defined in terms of specific electronic presentation titles (see again Column 3, Lines 20-25 where the preferences Clinton and Middle East are used to find programs (that contain titles) where Bill Clinton talks about the Middle East, therefore the preferences Clinton and Middle East are defined in terms of specific electronic presentation titles that contain Bill Clinton talking about the Middle East).

Referring to claim 3, Menard discloses that the viewer-defined preferences are defined in terms of topics that can occur within electronic presentations (see Column 3, Lines 20-25 for a preference being Middle East, which is a topic).

Referring to claim 5, see the rejection of claims 1-3.

Referring to claim 6, Menard discloses that the viewer-defined preferences are defined in terms of priorities that can be assigned to the two or more electronic presentations (see Column 3, Lines 20-25 for the preferences Clinton and Middle East, which define priorities of what the user is interested in watching).

Referring to claim 7, see the rejection of claim 6.

Referring to claims 9-10, Menard discloses one or more computers (which contain one or more computer-readable media) with instructions which, when executed by the one or more computers, cause the one or more computers to perform the method of claim 1 (see the rejection of claim 1 and Figure 1 for the one or more computers).

Referring to claim 11, see the rejection of claim 1 and further note that Menard also discloses automatically notifying a viewer when one or more electronic presentations satisfies a viewer-defined preference (see again Column 3, Lines 33-39) and that the activity or action can pertain to a character or person in at least one of said two or more electronic presentations (see Column 3, Lines 20-25 for the activity/action being Bill Clinton (person) talking about the Middle East (action)).

Referring to claims 12-13, see the rejection of claims 2-3, respectively.

Referring to claims 15-17 and 19, see the rejection of claims 5-7 and 9, respectively.

Referring to claim 20, Menard discloses one or more programmable computers having instructions which, when executed by the one or more computers implement a viewing management method for managing viewing of multiple live electronic presentations (see the rejection of claims 1 and 9).

Menard also discloses sending at least one viewer request to an encoder (see Column 4, Lines 47-57 for search engine 21 in Figure 2 receiving the viewer request stored in the user profile in memory 20), the viewer request containing one or more viewer-defined preferences that relate to one or more events that can occur in one or more electronic presentations (see the rejection of claim 1), wherein at least some of said events describe some activity or action that can take place within the electronic presentation itself (see the rejection of claim 1) and wherein an activity or action can pertain to a character or person in at least one of said one or more electronic presentations (see the rejection of claim 11).

Menard also discloses evaluating, with the encoder, one or more electronic presentations that are being broadcast to determine whether any of the viewer-defined preferences are satisfied (see again Column 4, Lines 47-57 for search engine 21 being used to determine if a viewer-defined preference is satisfied), wherein evaluating comprises at least monitoring data that does not comprise content that can be presented to a viewer (see the rejection of claim 1).

Menard also discloses if a viewer-defined preference is satisfied by one or more of the electronic presentations, notifying a viewer that is associated with the viewer-defined preferences that was satisfied (see again Column 3, Lines 15-39).

Referring to claim 21, Menard discloses that notifying comprises automatically displaying the electronic presentation that satisfied the viewer-defined preference (see Column 3, Lines 38-39).

Referring to claim 22, Menard discloses that notifying comprises displaying indicia for the viewer that is associated with the viewer-defined preference that was satisfied (see Column 3, Lines 36-37).

Referring to claim 23, Menard discloses that prior to sending, receiving viewer requests with a server (see Column 4, Lines 21-24 for setting up the viewer profile in memory 20 prior to sending the viewer profile request to search engine 21), the viewer request originating from a plurality of different viewers (see Column 4, Lines 41-46).

Menard further discloses maintaining at least a list of viewers and their viewer-defined preferences in the server (see again Column 4, Lines 21-24 and Column 4, Lines 41-46).

Menard further discloses sending the viewer request from the server to the encoder (see Column 4, Lines 47-57 for sending the viewer request from memory 20 to search engine 21).

Referring to claim 24, Menard discloses sending a notification from the encoder to the server (see Column 4, Lines 47-57 for the notification of profile data being transmitted/sent from memory 20 to search engine 21 in Figure 3).

Menard also discloses receiving the notification sent from the encoder (see again Column 4, Lines 47-57 for receiving a notification of profile data from memory 20 to search engine 21 in Figure 3).

Menard also discloses sending a notification from the server to the viewer (see again Column 3, Lines 33-39).

Referring to claim 25, see the rejection of claim 20.

Referring to claims 26-27, see the rejection of claims 21-22, respectively.

Referring to claim 29, Menard discloses that receiving is performed by a server that is programmed to receive the viewer requests and notify the viewers (see again Column 4, Lines 47-57 and Column 3, Lines 33-39 and search server 4 in Figure 1).

Referring to claim 30, Menard discloses that receiving is performed by a server that is programmed to receive the viewer requests, evaluate the live electronic presentation, and notify the viewers (see again Column 4, Lines 47-57 and Column 3, Lines 33-39 and search server 4 in Figure 1).

Referring to claim 31, Menard discloses receiving information describing the electronic presentation as they are broadcast (see Column 4, Lines 12-13 for receiving the time-tagged text stream from LAN 14 previously described by the examiner in the rejections above), receiving updated information describing the electronic presentations as they are being broadcast (see Column 4, Lines 47-49 for the text stream continually being sent over LAN 14, thereby continually updating the text streams from the television program in order for a profile match from the profile data stored in memory 20

to occur) and evaluating all of the information that is received in light of the viewer-defined preferences (see again Column 4, Lines 47-57 for evaluating all of the incoming text-tagged data streams against the user's profiles stored in memory 20).

Referring to claims 32-33, see the rejection of claims 9-10, respectively.

Referring to claim 34, see the rejection of claims 25 and 31.

Referring to claims 35-37 and 39-40, see the rejection of claims 25-26, 2, 39 and 9, respectively.

Referring to claim 41, see the rejection of claims 1, 25 and 29 and further note Figure 1 of Menard for teaching multiple client devices (PC 7) and computing devices (servers 8 and 4).

Referring to claim 42, see the rejection of claim 22.

Referring to claim 43, Menard discloses that the indicia comprises a display of the live electronic presentation (see Column 3, Lines 33-39).

Referring to claim 44, see the rejection of claims 1, 11 and 25 and further note that Menard teaches monitoring viewing habits of one or more viewers of live electronic presentations at Column 4, Lines 21-26, which discloses setting up a user's profile.

Referring to claims 45-46, see the rejection of claims 21-22, respectively.

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Referring to claims 50-51, see the rejection of claims 9-10, respectively.

Referring to claim 52, see the rejection of claim 44.

Referring to claim 53-54, Menard teaches either a television or computer display at Column 3, Lines 38-39.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 8, 18, 28, 47-49 and 55-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Menard et al. (U.S. Patent No. 6,810,526) in view of Alexander et al. (U.S. Patent No. 6,177,931).

Referring to claim 8, Menard discloses all of the limitations of claim 1, but is silent as to the specific display of the detected television programs, thereby failing to teach that the automatic switching comprises enabling a PIP display for the viewer in which at least two of the electronic presentations are contemporaneously displayed for the viewer.

Alexander teaches a method for collecting viewer profile information at a central server similar to the method of Menard (see Column 29, Lines 12-67) and using the profile information to display specific electronic presentations to the viewer (see Column 31, Lines 25-33 or Column 32, Line 61 through Column 33, Line 8).

Alexander further teaches using the profile information/viewer-defined preferences to automatically switch using a PIP display for the viewer in which at least two electronic presentations are contemporaneously displayed for the viewer (see Column 31, Lines 9-24).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the television display, as taught by Menard, using the PIP display functionality, as taught by Alexander, for the purpose of providing improved features to the EPG display and navigation, improved opportunities for the commercial advertiser to reach the viewer (see Column 2, Lines 5-15 of Alexander).

Referring to claim 18, see the rejection of claim 8.

Referring to claim 28, see the rejection of claim 8.

Referring to claim 47, see the rejection of claim 8.

Referring to claim 48, Menard discloses all of the limitations of claim 44, as well as collecting viewer profile data stored in memory 20 (see Column 4, Lines 21-23), but fails to teach establishing a correlation between the time that a viewer views a particular electronic presentation and the events that transpire during that time.

As described in the rejection of claim 8, Alexander discloses a similar system for gathering and evaluating profile data (see the rejection of claim 8). This includes establishing a correlation between the time that a viewer views a particular electronic

presentation and the events that transpire during that time (see Column 28, Line 10 through Column 30, Line 44).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the profile gathering and evaluation techniques, as taught by Menard, using the profile process, taught by Alexander, for the purpose of providing improved features to the EPG display and navigation, improved opportunities for the commercial advertiser to reach the viewer (see Column 2, Lines 5-15 of Alexander) and utilization of viewer profile information to customize various aspects of the EPG and provide customized presentation of advertising to the viewer (see Column 2, Lines 17-20 of Alexander).

Referring to claim 49, see the rejection of claim 48 and further note Column 29, Lines 22-30 for repeating profile collection process over a plurality of time frames during which the viewer is viewing one or more electronic presentations.

Referring to claim 55, see the rejection of claim 1 and further note that Alexander teaches the user interface in Figure 3, which clearly teaches presenting a plurality of fields, one of which displaying a number of titles of programs that can be selected by a viewer, another of which displaying indicia that can be selected to define viewer preferences. Further note Figure 2 for an input device operable to enable a user to select a particular presentation for continuous play viewing.

Referring to claim 56, Alexander discloses that said indicia is associated with predefined aspect of the programs (see PIP window in Figure 3 for displaying the real-time program that is highlighted in the grid).

Referring to claim 57, Alexander discloses that said indicia is associated with viewer-definable aspects of the programs (see Ad Windows in Figure 3, which can display advertisements according to what the viewer has previously watched (see Column 32, Lines 35-54)).

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (571) 272-7301. The examiner can normally be reached on M-F 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jason P Salce
Primary Examiner
Art Unit 2623

February 20, 2007

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